STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0794

State of Minnesota, Minnesota Judicial Branch,
Respondent,

vs.

Teamsters Local 320,
Appellant.

Filed January 24, 2022
Affirmed
Gaïtas, Judge

Ramsey County District Court
File No. 62-CV-20-5773

Keith Ellison, Attorney General, Joseph Weiner, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Kevin M. Beck, Joseph A. Kelly, Patrick J. Kelly, Kelly & Lemmons, P.A., St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Gaïtas, Judge; and Kirk, Judge.*

SYLLABUS

1. The 2019-2021 collective bargaining agreement for official court reporters provides that a judge's decision to terminate an appointed court reporter's employment is not subject to arbitration.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

2. A court reporter serving the Minnesota Judicial Branch by appointment of a judge is an at-will employee.

OPINION

GAÏTAS, Judge

In this appeal, we are asked to decide whether two court reporters, both terminated by their appointing judges for "disruptive and disrespectful conduct," are entitled to arbitrate their terminations. An arbitrator determined that they are entitled to arbitration under both the collective bargaining agreement (CBA) in effect at the time of the terminations and Minnesota law. But the district court vacated the arbitrator's decision, concluding that state law forecloses arbitration when an appointing judge terminates a court reporter's employment. Appellant Teamsters Local 320 (the union), which represents court reporters employed by respondent Minnesota Judicial Branch (the MJB), challenges the district court's decision. We affirm.

FACTS

Since 2000, the union has represented all official court reporters employed by the MJB. "The Court Employees Court Reporter Unit consists of court reporters not otherwise excluded who are employed by a judicial district . . . ."[1] Minn. Stat. § 179A.101, subd.

[1] Beginning in 1989, "[d]istrict court referees, judicial officers, court reporters, law clerks, . . . district administration staff" and other district court employees became state employees of the MJB. *See* Minn. Stat. § 480.181, subd. 1 (Supp. 1989); *see also* Minn. Stat. § 43A.02, subd. 25 (Supp. 1989). Previously, these individuals were employed by Minnesota counties or judicial districts. *See* Minn. Stat. § 480.181, subds. 2, 4 (Supp. 1989).

1(e) (2020). In 2019, the union and the MJB entered into a CBA that would be effective from July 2019 to June 2021 (the 2019-2021 CBA).

Two district court judges terminated their court reporters for "disruptive and disrespectful conduct" in September 2019.[2] Following the terminations, the union filed administrative complaints under the 2019-2021 CBA and requested arbitration. The MJB moved to dismiss the complaints, asserting that the terminations were not arbitrable. Both parties briefed the issue before an arbitrator, whose inquiry was "specifically limited to whether the employees [could] proceed to an arbitration" under the terms of the CBA.

The arbitrator determined that the terminations were arbitrable. He distinguished between the MJB, which is identified as the "employer" under the CBA, and the appointing judges. According to the arbitrator, the CBA and state law allow an appointing judge to "remove a reporter from their courtroom." But the arbitrator reasoned that an appointing judge has no authority to terminate a court reporter's "employment with the [MJB]," which is the party to the CBA. The arbitrator concluded that the administrative complaint process under the CBA—including the requirement for binding arbitration—applies to the MJB. According to the arbitrator, "while a Judge may well have the right to remove a court reporter from his or her courtroom, the question of whether they remain employed by the employer is an arbitrable question."

[2] The chief judge of the district sent the notice-of-termination emails, but on appeal, the parties do not take issue with her authority to do so on behalf of the appointing judges. *See* Minn. Stat. § 484.69, subd. 3 (2020) (describing a chief judge's general administrative authority over the courts within the chief judge's judicial district).

The MJB moved the arbitrator to reconsider this decision and submitted evidence to support its position that the appointing judge has complete authority to terminate a court reporter's employment. The evidence included a declaration by a former MJB human resources assistant regarding the bargaining process between the MJB and the union in 2001 and the MJB's past practices when judges terminated their court reporters' employment. Additionally, the MJB offered audio recordings of state legislative sessions addressing relevant state statutes. The arbitrator rejected this evidence because it was "not raised in the original motion [to dismiss]" and denied the MJB's request for reconsideration.

Subsequently, the MJB filed a motion to vacate the arbitrator's decision in the district court[3] pursuant to Minnesota Statutes section 572B.23 (2020). The district court vacated the arbitrator's decision, determining that the terminations were not arbitrable under state law.

The union appeals.

ISSUE

Are court reporters who have been terminated by their appointing judges entitled to arbitrate the terminations under the 2019-2021 CBA and Minnesota law?

ANALYSIS

The union argues that court reporters employed by the MJB have a right to arbitrate their terminations under the 2019-2021 CBA and Minnesota law. Acknowledging that a

[3] To avoid a conflict of interest, the motion was assigned to a senior judge who did not appoint or supervise a court reporter.

judge has authority to remove a court reporter from the judge's employment, the union maintains that a court reporter removed by a judge remains an MJB employee and is entitled to arbitrate any termination by the MJB.[4] On the other hand, the MJB contends that a judge's decision to terminate a court reporter ends the court reporter's employment with the MJB and that neither the CBA nor Minnesota law provides for arbitration.

Before turning to these arguments, we identify our standard of review. "Determining whether a party has agreed to arbitrate a particular dispute is a matter of contract interpretation that [appellate courts] review de novo." *Glacier Park Iron Ore Props., LLC v. U.S. Steel Corp.*, 961 N.W.2d 766, 771 (Minn. 2021); *see also Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 795 (Minn. 1995). "In reviewing an arbitrator's

[4] In the district court, the union also argued that the MJB's motion to vacate the arbitrator's decision was untimely under the Minnesota Uniform Arbitration Act (MUAA), Minn. Stat. §§ 572B.01-.31 (2020). Although the union withdrew the argument during the hearing before the district court, the union now raises a similar timeliness argument on appeal. Moreover, without authority, the union alleges that the district court had no "jurisdiction" to consider the motion to vacate because the MJB did not comply with statutory deadlines under the MUAA. Generally, we do not consider claims that were not presented to the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts should generally only review questions that the district court heard and considered). But a party may raise a district court's lack of subject-matter jurisdiction at any time. *See Cochrane v. Tudor Oaks Condo. Project*, 529 N.W.2d 429, 432 (Minn. App. 1995) ("Because subject matter jurisdiction goes to the authority of the court to hear a particular class of actions, lack of subject matter jurisdiction may be raised at any time . . . ."). The union's new timeliness argument—which provides the entire foundation for its unsupported jurisdiction claim—fails. The proceedings below all occurred during a period when statutory deadlines were suspended by a session law, the "COVID-19 Policy." *See* 2020 Minn. Laws ch. 74, art. 1, § 16, at 66 (suspending "statutes of limitations" and "other time periods prescribed by statute" during, and for 60 days after, the peacetime emergency declaration prompted by the COVID-19 pandemic). We therefore reject the union's argument that the district court improperly considered the motion to vacate because the MJB failed to comply with statutory timelines.

decision, the arbitrator is the final judge of both law and fact, but this court's review of the determination of arbitrability is de novo." *Phillips v. Dolphin*, 776 N.W.2d 755, 758 (Minn. App. 2009) (quotations omitted), *rev. denied* (Minn. Mar. 16, 2010). Because we are reviewing the arbitrator's decision on arbitrability, which requires us to interpret the terms of the 2019-2021 CBA, we apply a de novo standard of review.

For background, we briefly summarize the relevant Minnesota statutes. Several Minnesota statutes address the employment of court reporters appointed by judges. Section 486.01, which is included in a chapter concerning court reporters, provides that "[e]ach judge . . . may appoint a competent stenographer as reporter of the court, to hold office during the judge's pleasure, and to act as the judge's secretary in all matters pertaining to official duties." Minn. Stat. § 486.01 (2020).

The Minnesota Public Employment Labor Relations Act (PELRA), Minn. Stat. §§ 179A.01-.25 (2020 & Supp. 2021), also applies to court reporters who work for district court judges. PELRA, which was enacted in 1984, established collective bargaining rules and rights for Minnesota public employees. 1984 Minn. Laws ch. 462. MJB employees were not initially covered under PELRA. Court employees, excluding court reporters, were first given collective bargaining rights in 1999. 1999 Minn. Laws ch. 216, art. 7, §§ 4, at 1352-53; 7, at 1354; 9, at 1355-56. Court reporters were included one year later. 2000 Minn. Laws. ch. 345, § 2, at 332.

Under PELRA, "[a]ll contracts must include a grievance procedure providing for compulsory binding arbitration of grievances including all written disciplinary actions." Minn. Stat. § 179A.20, subd. 4. But PELRA also directly addresses removal of a court

reporter by a judge. Section 179A.101 states, "Notwithstanding any provision of this chapter or any other law to the contrary, judges may appoint and remove court reporters at their pleasure." Minn. Stat. § 179A.101, subd. 1(f).

With the applicable law in mind, we next consider the rights of court reporters under the 2019-2021 CBA. Specifically, we turn to the question of whether the CBA requires arbitration of a judge's termination decision.

I. The 2019-2021 CBA does not require arbitration of a judge's decision to terminate an appointed court reporter's employment.

A party cannot be required to arbitrate a dispute that the party did not contractually agree to arbitrate. *Glacier Park*, 961 N.W.2d at 771. To determine whether a party agreed to arbitrate a dispute, courts examine the contract language. *Id.*

The 2019-2021 CBA identifies an arbitrable claim—called an "administrative complaint"—as a "dispute or disagreement as to the interpretation or application of the specific terms and conditions of this agreement." It also specifies what is *not* subject to arbitration: "powers granted to the Appointing Authority under statute or this contract are not subject to the Administrative Complaint Process." And it further states that "[n]othing contained in this Administrative Review Procedure abrogates or diminishes the Appointing Authority's right to appoint Employees or to remove an Employee from serving at the pleasure of the Appointing Authority."

The MJB argues that the plain language of the CBA excludes a judge's termination decision from arbitration. It contends that the CBA explicitly preserves a judge's right to remove a court reporter at will. The union acknowledges that the CBA recognizes the

continuing authority of a judge to remove a court reporter. According to the union, however, a judge's decision to remove a court reporter is different from the MJB's termination of the court reporter.

To resolve this disagreement over the terms of the CBA, we must interpret the meaning of the word "remove" as used in the CBA. Does it mean termination of employment, as the MJB contends? Or does it mean something short of termination, such as no longer using a court reporter's services?

"We interpret and enforce a CBA as we do other contracts." *Minn. Teamsters Pub. & Law Enf't Emps. Union, Local 320 v. County of St. Louis*, 726 N.W.2d 843, 847 (Minn. App. 2007), *rev. denied* (Minn. Apr. 25, 2007). "The primary goal of contract interpretation is to determine and enforce the intent of the parties." *Travertine Corp. v. Lexington-Silverwood*, 683 N.W.2d 267, 271 (Minn. 2004). A court first considers the language of the contract. *Id.* When the language of the contract is unambiguous, it should be given its plain meaning. *Savela v. City of Duluth*, 806 N.W.2d 793, 796-97 (Minn. 2011). Contract language is ambiguous if it is "reasonably susceptible of more than one meaning." *Hoyt v. Browkaw*, 359 N.W.2d 310, 311 (Minn. App. 1984). To determine whether a contract is ambiguous, courts should not read words and phrases in isolation, but should consider their meaning in the context of the contract as a whole. *Art Goebel, Inc. v. N. Suburban Agencies, Inc.*, 567 N.W.2d 511, 515 (Minn. 1997). "A contract must be interpreted in a way that gives all of its provisions meaning." *Current Tech. Concepts v. Irie Enters., Inc.*, 530 N.W.2d 539, 543 (Minn. 1995).

Considered in isolation, the word "remove" has many meanings. But in the context of the 2019-2021 CBA, it can only have one meaning: termination of employment. We conclude that the meaning of "remove" unambiguously means termination for several reasons.

First, the word "remove" is included in a provision that specifically addresses a court reporter's employment—"the Appointing Authority's right to appoint Employees or to *remove* an Employee from serving at the pleasure of the Appointing Authority." (Emphasis added.) When interpreting a contract, a court cannot ascertain the parties' intent "by a process of dissection in which words or phrases are isolated from their context." *Motorsports Racing Plus, Inc. v. Arctic Cat Sales, Inc.*, 666 N.W.2d 320, 324 (Minn. 2003) (quotation omitted). By using the word "remove" in a provision discussing employment, the parties clearly intended it to mean removal from service.

Second, the 2019-2021 CBA uses the words "remove" and "terminate" interchangeably. As noted, the CBA states that the administrative-review procedure does not "abrogate[] or diminish[]" a judge's right to "*remove* an Employee from serving at the pleasure of the [judge]." (Emphasis added.) In an article entitled "Separations," the CBA states that "[n]othing in this article shall be construed to limit in any way the right of the Appointing Authority to *terminate* their Court Reporter at their pleasure." (Emphasis added.) Another provision articulates the procedures to be followed when an appointing authority leaves office. It states, "Upon the death, resignation, *removal* or retirement of an Appointing Authority, so long as the Employee is available for work, the Employee shall remain on the payroll and work in a temporary pool subject to assignment by the Chief

Judge or designee" until the court reporter is selected by the newly appointed judge or not selected. (Emphasis added.) And a section entitled "Other *Removals*" provides:

> Employees who are *terminated* by a Judge for reasons other than non-selection by a newly appointed or elected Judge shall be given paid notice of *termination of employment* of not less than thirty (30) calendar days but not more than sixty (60) calendar days, at the discretion of the Appointing Authority.

(Emphasis added.)

Third, considering the contract as a whole, the word "remove" is used in circumstances where it could only refer to termination of employment. The article entitled "Separations" effectively illustrates this point. It lists the various situations where a court reporter's employment ends, including "resignation" and "abandonment of position," and correspondingly provides information about the implications of each separation type. One of these situations is "involuntary removals." The CBA identifies two types of involuntary removals. First, an involuntary removal occurs when a court reporter's appointing judge dies, resigns, or otherwise leaves the position, and the judge's successor in the position does not select the affected court reporter. Under those circumstances, the court reporter is entitled to "paid notice of termination of employment" of a duration that depends on years of service. The second type of involuntary removal occurs when a judge "terminate[s]" a court reporter "for reasons other than non-selection by a newly appointed or elected Judge." For this second type of involuntary removal, a court reporter is entitled to no more than 60 days' paid notice of termination. In the context of separations and involuntary removals, the word "remove" only makes sense if it is interpreted to mean termination of employment. Conversely, the union's interpretation—that removal simply

means removal from the judge's courtroom—makes no sense in the context of these provisions. If removal refers only to removal from a courtroom, it is unclear why a removed court reporter would receive "paid notice of termination." Considering the contract as a whole, the word "remove" means termination of employment.

Fourth, the union asks us to adopt an interpretation of the 2019-2021 CBA that has no support in the text of the contract. There is no indication in the CBA that the parties intended to require arbitration after a judge's decision to remove and before the MJB could officially terminate a court reporter. Indeed, the union's interpretation is contrary to the plain language of the contract, which repeatedly affirms a judge's authority to terminate a court reporter and excludes such decisions from the complaint-review procedure.

Based on these considerations, we conclude that the 2019-2021 CBA unambiguously recognizes that a judge's decision to terminate a court reporter's employment is not subject to the administrative-review procedure, including arbitration. But even if there is some ambiguity in the contract language, the parties' past practices confirm that the word "remove," as used in the CBA, means termination of employment.

When a written agreement is ambiguous or incomplete, a court may consider extrinsic evidence of the parties' intent. *Staffing Specifix, Inc. v. TempWorks Mgmt. Servs., Inc.*, 913 N.W.2d 687, 692 (Minn. 2018). The MJB submitted extrinsic evidence with its reconsideration request to the arbitrator and its subsequent motion to vacate the arbitrator's decision in the district court.[5] Those submissions included the declaration of a former MJB

[5] The union argues that this evidence should not be included in the district court record because the MJB submitted it to the arbitrator in connection with the request for

employee that summarized contract negotiations between the union and the MJB, and the parties' past practices. According to the declaration, the union and the MJB negotiated the first CBA in 2000 and 2001. During that process, the parties initially were unable to reach an agreement about whether court reporters would be entitled to an administrative complaint process, including arbitration, upon termination by an appointing judge. But after a foray into mediation regarding several issues, "including the at-will status of the court reporters," the parties ultimately agreed to a contract "with no erosion of the at will rights of judges." And the final draft of the first CBA explicitly recognized that it did not restrict the right of judges to terminate their court reporters.

As to past practices, the declaration states that between 2001 and 2019, 25 court reporters were terminated by their appointing judges. None of these terminations resulted in arbitrations. The terminated court reporters left the service of their appointing judges and were no longer MJB employees.

The extrinsic evidence strongly supports the plain language of the 2019-2021 CBA. A judge's decision to terminate a court reporter is not subject to arbitration. The arbitrator erred in concluding otherwise.

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reconsideration *after* the arbitrator's decision. However, in conducting de novo review of an arbitrator's determination of arbitrability, the district court may receive "evidence in addition to that presented to the arbitrator." *State v. Berthiaume*, 259 N.W.2d 904, 909 (Minn. 1977). And although the union contends that the evidence raises new arguments that the arbitrator did not address, on de novo review, the district court is not bound by the arbitrator's rationale. *See id.*

II. Under Minnesota law, a court reporter appointed by a judge and employed by the MJB is an at-will employee.

The union also argues that arbitration is required under Minnesota law. It points to PELRA, which requires all public employee contracts to provide a grievance procedure, including compulsory binding arbitration, for written disciplinary actions. *See* Minn. Stat. § 179A.20, subd. 4. According to the union, to the extent that the 2019-2021 CBA and any other laws suggest that court reporters are not entitled to arbitrate terminations, they conflict with PELRA.

Before we turn to the union's argument, we briefly review the law that we must consider. As noted, Minnesota Statutes section 486.01 provides that a judge may appoint a court reporter "to hold office during the judge's pleasure." PELRA does require public employee contracts to include a grievance procedure, as the union observes. *See* Minn. Stat. § 179A.20, subd. 4. And it does bestow collective bargaining rights on court reporters. *See* Minn. Stat. § 179A.101, subd. 1(e). But PELRA also contains a provision specifically addressing the employment terms of court reporters who work for judges: "Notwithstanding any provision of this chapter or any other law to the contrary, judges may appoint and remove court reporters at their pleasure." Minn. Stat. § 179A.101, subd. 1(f). To address the union's argument, we must determine what these statutes mean. "The interpretation of a statute is a question of law that [appellate courts] review de novo." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).

To interpret these statutes, we must construe the terms "during the judge's pleasure" and "at their pleasure." Both section 486.01 and PELRA use this language to describe the employment relationship between a judge and the judge's appointed court reporter.

The first task in statutory interpretation is to determine whether the statute's language is ambiguous. *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020). Ambiguity exists where a statute is subject to more than one reasonable interpretation. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). If the language of a statute is plain and unambiguous, we will not engage in further construction. *Townsend*, 941 N.W.2d at 110.

The legislature has provided some ground rules for determining the plain meaning of a statute—the canons of interpretation. *See* Minn. Stat. § 645.08 (2020) ("In construing the statutes of this state, the . . . canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute."); *see also State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019). One of those rules requires a court to construe "technical words and phrases and such others as have acquired a special meaning . . . according to such special meaning or their definition." Minn. Stat. § 645.08(1). "A word has a special meaning if courts have ascribed a well-established and long-accepted meaning to it." *Cox v. Mid-Minnesota Mut. Ins. Co.*, 909 N.W.2d 540, 543 (Minn. 2018) (quotation omitted). To decide whether words or phrases have a technical meaning, we consider the context in which they appear. *Hous. & Redev. Auth. of Duluth v. Lee*, 852 N.W.2d 683, 691 (Minn.

2014); *see also Roberts v. State*, 933 N.W.2d 418, 421 (Minn. App. 2019), (explaining that we consider statutes as a whole), *aff'd*, 945 N.W.2d 850 (Minn. 2020).

The term "pleasure" as used in section 486.01 and section 179A.101, subd. 1(f), has a technical meaning. "Where a statute provides that a public officer or employee may be removed at pleasure of the appointing authority, he is removable at will, with or without cause." *State ex rel. Stubben v. Bd. of Cnty. Comm'rs of Hennepin Cnty.*, 141 N.W.2d 499, 504 (Minn. 1966); *see also In re Admin. Appeal of Termination of Emp.*, 374 N.W.2d 754, 756 (Minn. App. 1985) ("Serving at the 'pleasure' of the county attorney is synonymous with removal at the pleasure of the county attorney."), *rev. denied* (Minn. Dec. 13, 1985). Because the term "pleasure" has a technical meaning when used to describe the employment status of a public employee, we use that meaning in interpreting section 486.01, which concerns the employment relationship between a judge and the judge's appointed court reporter. We conclude that, under section 486.01, a court reporter is an at-will employee[6] who can be removed without cause.

Although the union argues that section 486.01 conflicts with PELRA's requirement that all contracts between public employees and their employers provide a grievance process, PELRA contains an exception for judges that mirrors section 486.01. It excludes judges from "any provision of this chapter or any other law to the contrary" because "judges may appoint and remove court reporters at their pleasure." Minn. Stat.

[6] When an employee is at will, "the employer can summarily dismiss the employee for any reason or no reason." *Pine River State Bank v. Mettille*, 333 N.W.2d 622, 627 (Minn. 1983).

§ 179A.101, subd. 1(f). By including this exception and using the term "at their pleasure," PELRA recognizes that court reporters are at-will employees and can be terminated[7] notwithstanding any provisions under PELRA. We therefore see no inconsistency between section 486.01 and PELRA.

Citing *General Drivers, Local No. 346 v. Aitkin County Board*, the union argues that PELRA's general requirement for grievance procedures trumps any other contrary statutory provisions, such as section 486.01. 320 N.W.2d 695 (Minn. 1982). In *General Drivers*, the Minnesota Supreme Court considered the relationship between the statutory predecessor to PELRA and a state statute that gave a county sheriff authority to "appoint" and "remove" deputies "at pleasure," but gave the county board the authority to set the number of deputies to be employed and their compensation. *Id.* at 699. There, the county had negotiated a CBA with the deputies, which prohibited terminations except for cause. *Id.* at 698. Notwithstanding the CBA, the sheriff discharged a deputy without cause. *Id.* Before the supreme court, the labor union argued that the PELRA predecessor and the CBA controlled, while the county board argued that the sheriff had authority to discharge under the statute delineating the sheriff's responsibilities. *Id.* The supreme court determined that the county board was the sole employer for the purpose of the CBA, and that the PELRA predecessor and the CBA prevailed over the contrary statute. *Id.* at 700.

[7] We also note that in at least one provision, PELRA uses the word "remove" to mean termination. *See* Minn. Stat. § 179A.19, subd. 6 (using the terms "remove" and "terminate" interchangeably).

General Drivers is not helpful to the union, though. Here, the 2019-2021 CBA expressly excludes a judge's decision to remove a court reporter from the administrative complaint process. Moreover, as noted, the current incarnation of PELRA excludes from PELRA requirements the decision of a judge to remove a court reporter. Thus, *General Drivers* does not support the union's position that PELRA mandates arbitration under the circumstances here.

Contrary to the union's argument, Minnesota law does not require arbitration of a judge's decision to terminate an appointed court reporter. Section 486.01 and PELRA unambiguously state that court reporters are at-will employees. Thus, a judge's decision to terminate an appointed court reporter ends the court reporter's employment with the judge and the MJB.

DECISION

Neither the 2019-2021 CBA nor Minnesota law requires arbitration of a judge's decision to terminate the judge's appointed court reporter. The arbitrator erred in concluding otherwise, and the district court properly vacated the arbitrator's decision.

Affirmed.